

Alternative Dispute Resolution Quick Facts

Louisiana Department of Revenue

Introduction

The Vision of the Louisiana Department of Revenue is to be recognized as a leader in customer service through a unified effort of dedicated employees and continuous improvement. This Vision recognizes the Department's responsibility for ensuring compliance with the state's tax laws, and providing taxpayers with a reasonable opportunity to disagree with a tax assessment and satisfactorily resolve the dispute.

Louisiana Revised Statute 47:1522 authorizes the Department of Revenue to use Alternative Dispute Resolution as a means of resolving issues regarding the collection of taxes, penalties or interest between the taxpayer and the Department. Alternative Dispute Resolution will provide a voluntary, confidential and cooperative means of resolving tax disputes, which will reduce the costs and risks of litigation for the taxpayer and the Department. Alternative Dispute Resolution will also expedite the tax collection and refund processes.

This pamphlet has been prepared to inform Louisiana taxpayers of their rights to enter into Alternative Dispute Resolution (LAC 61:III 301 et seq.) with the Department of Revenue. Explained in this brochure are the procedures for initiating arbitration, the procedures to be followed during the arbitration process, and the procedures for initiating mediation.

Initiating Arbitration

Arbitration may be initiated by the Secretary of the Department of Revenue or by the taxpayer. The total value of the case must be less than \$1 million as of the date of selection in order to participate in arbitration. If the secretary selects a case for arbitration, written notice will be sent to the taxpayer regarding the selection within 30 days. If the taxpayer desires to participate in arbitration, he must give written notice to the Department. The notice must be signed by the taxpayer or the taxpayer's representative and contain the following: taxpayer's name, tax identification number, address, telephone number, fax number, and e-mail address. The notice should also include the name of the taxpayer's representative, his or her contact information, a brief description of the nature of the dispute, the issues and the relief requested, reasons supporting the relief, and any other relevant information supporting the claim.

Selecting the Arbitrator

The Department and taxpayer will select an arbitration company from the registry maintained by the Department. Thereafter, the arbitration company will select an arbitrator to preside over the matter.

Arbitration Hearing

Hearings may be held at the LaSalle Building in Baton Rouge or at any other place designated by the arbitrator with consideration given to the location and convenience of the parties and their witnesses.

The arbitrator will select a hearing date. Each party must notify the arbitrator in writing at least 10 business days before the initial arbitration session of the following:

1. The party's intention to present witnesses;
2. Whether the party will be represented by counsel; and
3. Who will attend the hearing.

The Department and taxpayer must submit a brief statement of facts, law, and issues to be resolved. The statement may not exceed 15 legal-size pages without prior approval from the arbitrator.

The following sequence will be followed at the hearing:

1. Introduction. The arbitrator may make an introduction.
2. Opening statements. The taxpayer or his representative will make an opening statement followed by the Department's representative.
3. Taxpayer's case. The taxpayer may introduce evidence, examine witnesses, and submit exhibits. The Department's attorney or representative may cross-examine the witnesses.
4. Department's case. The Department may introduce evidence, examine witnesses, and submit exhibits. The taxpayer or taxpayer's representative may cross-examine the witnesses.
5. Evidence procedure. Each party will have the opportunity to present relevant and credible evidence during the hearing. All statements will be made under oath administered by the arbitrator. The Rules of Evidence followed in the state district courts of Louisiana will apply to all evidence presented and objections will be permitted.
6. Rebuttal. The taxpayer can present evidence and argument in rebuttal followed by the argument of the department, and of the taxpayer in rebuttal.
7. Summation. Each party may present a closing statement.
8. Concluding Remarks. The arbitrator may make closing

remarks concerning the case.

9. Judgment. The arbitrator shall render a decision within 30 business days after the date of the close of the hearing.

All arbitration sessions are private and confidential. No one participating in the session may disclose the existence, content, or results of the session without the written consent of all parties.

Fees and Expenses

Each party will bear the fees and expenses for its own counsel, expert witnesses, travel, and preparation and presentation of its case. The fees and expenses of the arbitrator will be borne equally by the taxpayer and the Department in accordance with the arbitration company's fee schedule, unless the parties agree otherwise. If an arbitration session has been scheduled and a party fails to appear at the session, the party failing to appear will be responsible for payment of the reasonable costs and fees of the arbitrator and the reasonable travel expenses incurred by the other party, unless the party has provided reasonable notice in writing to the arbitrator and all other parties that they will not appear. It will be presumed, subject to a contrary showing under the circumstances, that giving five business days advanced written notice is reasonable notice. If reasonable notice is not provided, the arbitrator shall determine if there was good cause for the failure to appear.

Protecting Protest and Appeal Rights

It is the duty of the taxpayer to protect his right to protest or appeal any assessment or proposed assessment or to pursue any right to refund relating to any issue that may also be subject to the alternative dispute resolution process. Any agreement between a taxpayer or taxpayer representative and a representative of the Department to alter the conditions or time limits must be authorized by the Secretary of the Department of Revenue and executed in writing by both parties to be effective.

Mediation

Either the Secretary of the Department of Revenue or the taxpayer for any matter in litigation may initiate mediation. There is no dollar value limitation for mediation. The party desiring to mediate must file a motion with the court where the matter is pending in accordance with the Louisiana Mediation Act, Louisiana Revised Statute 9:4101 et seq. The procedures set forth in the Louisiana Mediation Act will govern the mediation process.